

DAKOTA FAIR HOUSING

Published by the North Dakota
Fair Housing Council (serving South Dakota)



Volume 2, Issue 4

August, 2004

NOTICE: The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretation does not necessarily reflect the views of the government.

Alternate formats will be available when requested.

The information in this publication is not itself legal advice; for legal advice about a particular situation, contact an attorney.

DEPRESSED PAIR WINS DOGFIGHT-COURT RE- STORES \$18,000 AWARD IN BIAS CASE

(<http://sfgate.com/cgi-bin/article.cgi?file=/c/a/2004/08/26/BAGJV8E79315.DTL>)

Bob Egelko, San Francisco Chronicle Staff Writer
Thursday, August 26, 2004

Pooky, the little terrier who saved her owners from depression before being expelled by their condominium association, turned out to be the courts' best friend Wednesday.

The state Court of Appeal in Sacramento said Pooky didn't need special skills or training to be a therapeutic "companion animal," a status that can override a no-pets rule imposed by an apartment

owner or homeowners association.

While Pooky was long ago placed with new owners and will not be returning home, the ruling does reinstate \$18,000 in damages awarded to her owners in 2002 by the state Fair Employment and Housing Commission for disability discrimination.

At the center of the case are Ed Elebiari, who suffered brain injuries in a 1992 auto accident, and his wife, Jayne, a paralegal whose research on companion animals led to their court battle.

Both had been diagnosed as clinically depressed, but their spirits brightened in April 1999, when Jayne Elebiari brought the 11-pound Pooky home to the couple's Auburn condominium. They said the dog got them out of the house for walks, seemed to sense their moods and made it easier for them to face the day.

Their condominium association found out about the dog two months later, cited its no-dogs policy and told the Elebiaris they would have to get rid of Pooky or face fines starting at \$50 a day.

The Elebiaris complied and sank back into depression. Letters to the association from their therapists

saying the Elebiaris needed the dog were met by demands from the managers for more documentation and a suggestion that the couple should get a cat, allowed under the rules.

In June 2000, the association relented, but the Elebiaris already had filed a complaint with the state and made plans to sell their unit. They left Pooky at the home of friends, where a child had grown attached to her. The Department of Fair Employment and Housing sued on the Elebiaris' behalf in February 2001.

The couple now live in Rochester, N.Y., with Pooky II, a male Lhasa Apso, who "helps us get up in the morning," Jayne Elebiari said. "Everybody needs unconditional love."

Ed Elebiari called Wednesday's decision a victory for the disabled.

"Now, the people with disabilities cannot be put down, cannot be (deprived) of the things they need to go through daily life," he said.

In Wednesday's ruling, the court rejected the condo association's argument that the disability law requires waiver of a no-pets rule only for a specially trained animal, like a guide dog for the blind.

"It was the innate qualities of a dog, in particular a dog's friendliness and ability to interact with humans, that made it therapeutic here," said Justice Harry Hull in the 3-0 ruling.

An attorney for the Auburn Woods I Homeowners' Association was unavailable for comment. The ruling, which overturns a Placer County Superior Court decision last year, could be appealed to the state Supreme Court.

E-mail Bob Egelko at begeko@sfchronicle.com.

VOLUNTEERS NEEDED

The North Dakota Fair Housing Council is seeking volunteers to assist in gathering information on alleged South Dakota discriminatory housing practices. Volunteers are paid a stipend for their time and services and receive training. Please contact Stacy at 1-888-265-0907 or 701-221-2530 if you are interested or want more information.

BOARD OPENINGS

The North Dakota Fair Housing Council (NDFHC) is seeking ap-

plicants for vacant Board of Director positions. If you are interested in joining the Board, please contact Amy at 1-888-265-0907 or 701-221-2530. There is a short application to be completed for Board review. The Board meets quarterly and member travel expenses are reimbursed if they live outside of Bismarck, ND.

The NDFHC has been fighting housing discrimination in North Dakota since 1995 and in 2003 also began providing services in South Dakota. Federal and/or state fair housing laws state that it is illegal to discriminate in the rental, sale or financing of housing due to race, color, religion, gender, national origin, disability, presence of children, ancestry and/or creed.

In South Dakota, discrimination in housing most often occurs to people with disabilities, families with children and minorities. Since beginning work in South Dakota in March, 2003, the NDFHC has assisted in filing 22 complaints of housing discrimination. The NDFHC also initiates lawsuits on behalf of aggrieved individuals when necessary.

UPCOMING MEETINGS

Upcoming meetings of interest in South Dakota:

September 28, 2004: Black Hills Area Multi Housing Association Fair Housing Workshop, Rapid City, SD. Contact Tracy Parkison at 605-343-7525 for more information.

JUSTICE DEPARTMENT SETTLES LAWSUIT ALLEGING DISABILITY-BASED HOUSING DISCRIMINATION IN CARTERET, NEW JERSEY

WASHINGTON, D.C. - The Justice Department today announced an agreement with the owner/developer and architect of Meridian Square Apartments in Carteret, New Jersey, settling a lawsuit alleging violations of the Fair Housing Act.

The suit, filed April 30, alleged that Carteret Terrace LLC, Feinberg and Associates PC, and others violated civil rights laws by designing and con-

structing the apartment complex without required features that allow persons with disabilities to use them.

"Housing is a basic necessity," said R. Alexander Acosta, Assistant Attorney General for Civil Rights. "The inability to find accessible housing bars individuals with disabilities from participating more broadly in community life. These violations of the law must end."

Under the agreement, which was approved yesterday by the federal court, Carteret Terrace will make the apartment complex accessible to people using wheelchairs. Feinberg & Associates will pay \$5000 in compensation and Carteret Terrace will establish a \$45,000 fund to compensate those who may have been impacted by the inaccessible housing.

The case was referred to the Justice Department by the Department of Housing and Urban Development.

"The Fair Housing Act opens doors of opportunity to everyone," said Carolyn Peoples, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "In requiring that new apartment buildings be accessible, the Act says we can't leave people with disabilities at the threshold."

Since January 1, 2001, the Civil Rights Division has filed 131 lawsuits under the Fair Housing Act, including 32 enforcing the Act's design and construct provisions that formed the basis of this lawsuit.

Persons who believe that they have suffered from housing discrimination at Meridian Square should contact the Civil Rights Division at (800) 896-7743, option #98. Persons who believe that they have suffered housing discrimination elsewhere should contact the Department of Housing and Urban Development at (800) 669-9777.

NDFHC WEB SITE

Be sure to visit the North Dakota Fair Housing Council web site at: www.ndfhc.org

The site contains a large volume of information on fair housing, advertising, disability issues, occupancy standards, publications on-line and available by mail, related links and much, much more.

Toll-free 1-888-265-0907.

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